

Small Business Administration

§ 120.1708

(e) *What CSA must receive prior to Pool formation.* Before the CSA may carry out its responsibilities relating to the formation of a Pool, it must receive:

(1) From the Pool Originator: A properly completed First Lien Position 504 Loan Pool application form, First Lien Position 504 Loan Guarantee Agreement, and any other documentation which SBA may require, if applicable; and

(2) All cost reimbursement due and payable to the CSA prior to Pool formation owed by the Participants participating in the formation of the Pool.

§ 120.1706 Pool Originator's retained interest in Pool.

The Pool Originator must retain an ownership interest in any Pool it has formed that is equal to at least 5% of the aggregate of the total outstanding principal balance of each Pool Loan with a Loan Interest in the Pool as calculated at the time of Pool formation. Such interest will decline with Loan Interest payments, prepayments, defaults and any other early termination. At Pool formation, the CSA will issue the Pool Originator a Pool Originator Receipt evidencing the Pool Originator's retained interest in the Pool. The Pool Originator may not sell, pledge, participate, or otherwise transfer its Pool Originator Receipt or any interest therein for the life of the Pool.

§ 120.1707 Seller's retained Loan Interest.

The Seller must retain a 15% or greater Loan Interest in each of its loans included in a Pool. At Pool formation, the CSA will issue the Seller a Seller Receipt evidencing the Seller's retained ownership in the Pool Loan. With SBA's written permission, the Seller may sell the Seller Receipt and Servicing Retention Amount in whole, but not in part, to a single entity at one time. The Seller may not sell less than 100% of the Seller Receipt and Servicing Retention Amount, and may not sell a participation interest in any portion of any of its Pooled loans. In addition, in order to complete such sale, Seller must have the purchaser of its rights to the Pool Loan execute the First Lien Position 504 Loan Pool

Guarantee Agreement as Seller and deliver the executed original to the CSA.

§ 120.1708 Pool Certificates.

(a) *SBA Guarantee of Pool Certificates.* SBA guarantees to a Pool Investor the timely payment of principal and interest installments and any prepayment or other recovery of principal to which the Pool Investor is entitled. If an Obligor misses a scheduled payment pursuant to the terms of the Pool Note underlying a Loan Interest backing a Pool Certificate, SBA, through the CSA, will make advances to maintain the schedule of interest and principal payments to the Pool Investor. If SBA makes such payments, it is subrogated fully to the rights satisfied by such payment.

(b) *SBA guarantee backed by full faith and credit.* SBA's guarantee of the Pool Certificate is backed by the full faith and credit of the United States.

(c) *SBA purchase of a Loan Interest.* SBA will determine whether to purchase a Loan Interest backing a Pool Certificate with an underlying Pool Note that is 60 days or more in arrears. SBA reserves the right to purchase a Loan Interest from a Pool at any time.

(d) *Self-liquidating.* A Pool Certificate represents a fractional beneficial interest in a Pool that is self-liquidating by Pool Loan Receivables and/or SBA Loan Interest payment or redemption.

(e) *Pool Certificate form.* The CSA prepares the Pool Certificate. SBA must approve the form and terms of the Pool Certificate.

(f) *Pool Certificate registration.* A Pool Certificate must be registered with the CSA.

(g) *Face amount of Pool Certificate.* The face amount of a Pool Certificate cannot be less than a minimum amount as specified in the Guide, and the dollar amount of Pool Certificates must be in increments which SBA will specify in the Guide (except for one Pool Certificate for each Pool). SBA may change these requirements based upon an analysis of market conditions and program experience, and will publish any such change in the FEDERAL REGISTER.